

EDWARD H. MURRELL.

JUNE 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany S. 3426.]

The Committee on War Claims, to whom was referred the bill (S. 3426) for the relief of Edward H. Murrell, submit the following report:

Your committee adopt the report made by the Committee on Claims of the Senate of the present Congress, a copy of which is hereto attached and made a part of this report.

Your committee recommend the passage of the bill.

[Senate Report No. 529, Fifty-fifth Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 3426) entitled "A bill for the relief of E. H. Murrell," respectfully report the same with recommendation that it pass. A similar bill passed the Senate in the Fifty-third and Fifty-fourth Congresses, and in the Fifty-fourth Congress the Senate also adopted the item embraced in it as an amendment to the deficiency. A similar bill was also reported favorably by the Committee on War Claims of the House of Representatives in the Fifty-fourth Congress.

Your committee adopt the report made by the Committee on Claims of the Senate in the Fifty-fourth Congress, which is as follows:

[Senate Report No. 259, Fifty-fourth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1590) for the relief of Edward H. Murrell, respectfully report the same and recommend its passage.

Dr. Edward H. Murrell, the applicant, is a citizen of Lynchburg, Va., and his domicile was never otherwise than where it now is, either before, during, or since the war. His property in New Orleans was leased by him, and, as stated in his affidavit, was never abandoned nor was it ever captured except in the sense that it was in the city of New Orleans when the Confederate authorities surrendered the city to Gen. Benjamin F. Butler and the United States Army under pledge of protection of private property.

The Committee on Claims of the Senate, Fifty-third Congress, third session, reported the same bill favorably, and the Committee on Claims of the House, the bill having passed the Senate, did likewise.

The facts in the case are set forth in the report of the Committee on Claims of the Senate at the third session of the Fifty-third Congress, and we adopt the same.

The said report is as follows:

The Committee on Claims, to whom was referred the bill (S. 1881) for the relief of Edward H. Murrell, respectfully report the same and recommend its passage.

The bill provides for the payment to Edward H. Murrell, a citizen of Virginia, the sum of \$1,409.34, and was referred to the Secretary of the Treasury for information as to the items of account. Hon. W. E. Curtis, Acting Secretary of the Treasury, replied in a letter dated May 5, 1894, in which he says that the records of the Treasury show that B. F. Flanders, supervising special agent at New Orleans, under acts of Congress of March 12, 1863, and July 2, 1864, and the rules of the Treasury, seized certain premises there as abandoned property, of which Edward H. Murrell was the reputed owner, and that as appears by his account he received as rent for the premises and turned over to the Treasury Department as follows:

From No. 106 Poydras street.....	\$293. 00
From No. 112 Poydras street.....	578. 61
From No. 31 Natchez street.....	537. 73
Total.....	1, 409. 34

The Acting Secretary of the Treasury states that under the third section of the act of March 12, 1863, claimants had until two years after the close of the rebellion, to wit, until August 20, 1868, the right to file their claims in the Court of Claims, and as they did not do this, Congress must be the judge as to whether they should now be paid and upon what condition.

Mr. Murrell explains in his petition that he had obtained the papers upon which to base his claim, and that his overcoat containing them was stolen. There can be no doubt that this money was collected and turned into the Treasury, and it seems just and right that it should be restored.

Gen. Benj. F. Butler, to whom the city of New Orleans was surrendered, pledged the Government to the protection of private property, and the Supreme Court of the United States in the case of *Planters' National Bank v. Union Bank*, 16 Wall., 483, has decided that this pledge binds the Government.

Furthermore, it appears that Mr. Murrell, who was a citizen of Virginia, was pardoned by President Johnson for any participation in the rebellion.

The letter of Acting Secretary Curtis is hereunto attached with the petition of E. H. Murrell.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 5, 1894.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant inclosing Senate bill No. 1881, for the relief of Edward H. Murrell, and you ask, in effect, if the Treasury records are in accord with the facts as stated in the bill.

In reply, you are informed that the records show that B. F. Flanders, supervising special agent of the Treasury Department, at New Orleans, under the provisions of the act of March 12, 1863 (12 Stat. L., 820), and the act of July 2, 1864 (13 Stat. L., 375), and pursuant to the rules and regulations of the Secretary of the Treasury, approved by the President, seized certain premises as abandoned property in New Orleans, of which Edward H. Murrell was the reputed owner, and that the said B. F. Flanders, as appears by his account rendered, received as rent from the premises and turned over to the Treasury Department, as follows:

From No. 106 Poydras street.....	\$293. 00
From No. 112 Poydras street.....	578. 61
From No. 31 Natchez street.....	537. 73
Total.....	1, 409. 34

Also, that no rents were derived from these premises prior to December, 1864, and none after June, 1865, and that under instructions Mr. Flanders, July 1, 1865, turned over this property to the Bureau of Refugees, Freedmen, and Abandoned Lands, and received an official receipt therefor.

The records of the Department disclose the fact that a large number of similar claims might be presented, and it would seem, therefore, that if they are to be paid, a uniform mode of settlement should be provided.

I will state, further, that under the third section of the act of March 12, 1863 (12 Stat. L., 820), these claimants had until two years after the close of the rebellion—to wit, until August 20, 1868—the right to file their claims in the Court of Claims. As they did not do this, Congress must be the judge as to whether they should now be paid and upon what conditions.

Respectfully, yours,

W. E. CURTIS,
Acting Secretary.

Hon. D. CAFFERY,
Committee on Claims, United States Senate.

To the Congress of the United States:

Your petitioner respectfully represents that in 1861 and for many years afterwards he was the owner of the following houses in New Orleans, La., to wit, No. 106 Poydras street, No. 112 Poydras street, and No. 31 Natchez street. The rents of those houses were sequestrated by the agents of the United States and their rents, amounting to \$1,409.34, were turned into the Treasury, according to the accounts of B. F. Flanders, a Treasury agent. These rents were derived from December, 1864, to July, 1865. The city of New Orleans was taken possession of by the military forces of the United States under proclamation of the commanding general, promising protection to property, which has been held by the Supreme Court to be binding.

Your petitioner, who resided then, as now, in Lynchburg, Va., was pardoned by President Johnson for sympathy for the Confederate cause during the war, in which cause he took no further part than as a citizen of Virginia to give his adhesion to the de facto condition of things. In point of fact, your petitioner's property was sequestrated to a much larger extent than is indicated by these items, and he had prepared at one time to substantiate his claim to this and other items, but his overcoat containing the papers was stolen, and he was without the evidence upon which to sustain his claim. It is undisputable that the items aforesaid were collected and received by the United States and turned into the Treasury, and he respectfully asks that they may be restored and paid to him.

Very respectfully,

E. H. MURRELL.

In this case it appears that on May 1, 1862, when New Orleans was recaptured by the United States authorities, a large balance lay in the Union Bank of Louisiana, at New Orleans, to the credit of the Planters' Bank of Tennessee, with a number of drafts and other claims for collection and some Confederate bonds for sale. It had been understood between the two banks that the drafts and claims thus forwarded for collection and the bonds sent for sale were payable only in Confederate currency, and that all collections on account of the Planters' Bank had been made in currency with its knowledge and authority.

On entering New Orleans General Butler issued a proclamation declaring that all the rights of property of whatever account would be held inviolate, subject only to the laws of the United States.

On the 6th of August, 1861, Congress passed an act to confiscate property used in insurrection purposes, and subsequently, on the 17th of July, 1862, an act to suppress insurrection, and for other purposes.

These acts designated certain agents for seizing the property of the rebels and prescribed certain judicial proceedings of condemnation. But neither gave authority to military commanders to seize such property, nor did either make the property of any incorporated banks liable to such seizure.

General Banks, who succeeded General Butler, issued an order on the 17th of August, 1863, requiring the balance in the Union Bank to be taken possession of by the Government as the property of the enemy, and \$211,774 was accordingly paid in Confederate notes to the quartermaster by the Union Bank.

The Supreme Court of the United States held that this seizure was in violation of General Butler's pledge of protection to property, which, it said, "only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union;" and that "that action indicated the policy of the Government to be not to regard districts occupied and controlled by national troops as in actual insurrection, or their inhabitants as subject, in most respects, to treatment as enemies."

It is therefore plain that the confiscation of Mr. Murrell's property by the United States Government was illegal and in violation of General Butler's order giving it protection. The Government ought, therefore, to restore it.

LYNCHBURG, VA., September 14, 1895.

THE CHAIRMAN AND COMMITTEE ON CLAIMS:

This plaintiff avers that he was a citizen and resident of the State of Virginia, and that his domicile was never in the State of Louisiana or the city of New Orleans before, during, or since the civil war between the States, and that he was only the owner or proprietor of the several tenements, storehouses, occupied by lessors, which were never vacated or abandoned at any time during the occupation of the said city of New Orleans by the Federal troops, and that the said lessors had duly executed their notes in payment of the leases of the aforesaid premises until after the capitulation of the city aforesaid, when the equivalent in money was collected of the said lessors by Federal officials and deposited in the United States Treasury,

and that a large part of the said proceeds was applied to the establishment and purposes of the Freedmen's Bureau in the said city of New Orleans, which has never been refunded to this plaintiff, and which said sum is not embraced in the pending bill now before Congress, because of the loss of the certified evidence of Federal officials, occasioned by a sneak thief in Barnum's Hotel when this plaintiff was en route from New Orleans, via the city of Baltimore, to the city of Washington, in the year 1865, and because of the removal of the Federal troops, whose destination could not be ascertained or duplicate copies be obtained of the aforesaid parties.

In confirmation of which reference can be made to Major-General Howard, chief of the Freedmen's Bureau at that date, and confirmatory of the theft by an advertisement in the Baltimore Sun, or Mr. Dorsey, the proprietor of Barnum's Hotel at that date. This plaintiff further avers that he was never mustered in the Confederate States Army, and was exempted by law of the Confederate States Congress.

Therefore, this plaintiff alleges that the proceeds arising from the notes of the aforesaid lessors collected by Federal officials during the occupancy of the said city by Federal troops was in direct violation of the proclamation of Gen. Benjamin F. Butler, the commanding officer of the Federal troops, which assured the safety of the citizens and the protection of their property. Furthermore, that the proceeds collected from his lessors by Federal officials as aforesaid was not amenable to or in any form obligated by the act of Congress relating to captured and abandoned property, and that the said proceeds which were applied to the use and purposes of the Federal Government or deposited in its Treasury by the said Federal officials and never refunded to this plaintiff, is a violation of the fifth article of the amended Constitution of the United States, which provides that private property shall not be taken for public use without just compensation.

EDWARD H. MURRELL.

VIRGINIA, *City of Lynchburg, to wit:*

Sworn to and acknowledged before me this 19th day of September, in the year 1895.

[SEAL.]

DON P. HALSEY, *Notary Public*.

My claim, with Richard Parsons's and A. Winslow's, was placed in the possession of Samuel Patterson, of this city, for collection, soon after the close of the civil war, as our agent, and he turned it over to Hon. Mr. De Zendorf, of the House of Representatives, and I was never advised of any reason why it was not paid and know of no reason why it should not be paid, as all city taxes were paid, both during the occupation of the city of New Orleans by the Federals and afterwards, and there was no incumbrance on this property of any kind.

E. H. MURRELL.

